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Convention on the Privileges and Immunities of the Specialized Agencies: draft annex relating to the World Tourism Organization

Note by the Secretary-General***

1. The World Tourism Organization became a specialized agency on 23 December 2003 when the General Assembly, by resolution 58/232, approved the Agreement between the United Nations and the World Tourism Organization, which had previously been approved by the Economic and Social Council by its resolution 2003/2 of 10 July 2003.

2. By resolution 179 (II) of 21 November 1947, the General Assembly approved the Convention on the Privileges and Immunities of the Specialized Agencies and submitted it to the specialized agencies for acceptance and to every Member of the United Nations and to every other State member of one or more of the specialized agencies for accession. The main purpose of the Convention was to harmonize the privileges and immunities enjoyed by the United Nations and the various specialized agencies.

3. Section 35 of the Convention provides that the Secretary-General of the United Nations shall transmit to each newly established specialized agency a draft annex recommended by the Economic and Social Council, by which the standard clauses of the Convention are modified as appropriate for that agency. Under section 36, the final text of the annex shall be that approved by the specialized agency itself in accordance with its constitutional procedure.

4. In view of the fact that the General Assembly of the World Tourism Organization meets only every two years and its last session was held in December 2005, the General Assembly of the World Tourism Organization seeks to obtain approval of the draft annex by the Economic and Social Council prior to its session in 2007.

* Reissued for technical reasons.
** E/2006/100.
*** The present note has been submitted by the secretariat of the World Tourism Organization.

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5. By its resolution 489 (XVI) of 2 December 2005, the General Assembly of the World Tourism Organization accepted the Convention on the Privileges and Immunities of the Specialized Agencies as applied to itself. That resolution, along with a draft annex outlining the privileges and immunities of the organization, is transmitted in the communication from the Secretary-General of the World Tourism Organization to the Secretary-General of the United Nations, which is attached to the present note.

6. It should be noted that this draft annex, which closely follows the annexes of other specialized agencies, was prepared by the Office of Legal Affairs of the United Nations Secretariat, in close consultation with the Legal Counsel of the World Tourism Organization, and is presented to the Economic and Social Council for its approval.

7. The Secretary-General therefore suggests that the Council take note of the attached resolution of the General Assembly of WTO (resolution 489 (XVI)) and approve the draft annex to the Convention on the Privileges and Immunities of the Specialized Agencies with respect to the World Tourism Organization.

Letter dated 21 March 2006 from the Secretary-General of the World Tourism Organization addressed to the Secretary-General of the United Nations

[Original: French]

In accordance with the information provided to the Legal Counsel of the World Tourism Organization (WTO) by the Office of Legal Affairs of the United Nations Secretariat, I have the honour herewith to request you to draw the attention of the Economic and Social Council at its next session to the text of the annex to the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947 concerning WTO.

I should like to refer to section 35 of article X of the Convention, according to which, "In the case of any specialized agency not mentioned by name in section 1, the Secretary-General of the United Nations shall transmit to the agency a draft annex recommended by the Economic and Social Council".

In the case in question, it was agreed, by mutual consent between the Under-Secretary-General, the United Nations Legal Counsel, and the WTO Legal Counsel, to facilitate the process in order to avoid unduly delaying final approval of the annex by the WTO General Assembly, which meets only every two years. Accordingly, a draft annex was drawn up in cooperation with the United Nations Office of Legal Affairs and approved in advance by the WTO General Assembly at its session in Dakar in December 2005. I have attached the text of the annex and of the resolution approving it. It goes without saying that, if the Economic and Social Council raised objections with respect to the wording of the annex, the competent bodies of WTO would have to take a further decision on the amended text.

(*Signed*) Francesco **Frangialli**

Resolution 489 (XVI) adopted by the General Assembly of the World Tourism Organization on 2 December 2005 at its sixteenth session

[Original: Arabic, English, French, Russian and Spanish]

Cooperation with the United Nations system

Acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies

The General Assembly,

Having taken cognizance of the report of the Secretary-General and of the attached documents on the acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947,

Considering that the process of the World Tourism Organization's conversion into a specialized agency completed in 2003 has made the WTO into a fully-fledged organization of the United Nations system and that acceptance of the Convention by the WTO will enable the Organization to benefit from its provisions and will effectively complete the provisions of the Statutes relative to the privileges and immunities it enjoys,

Noting, further, that such acceptance will not undermine the system of privileges and immunities provided for in the agreements already concluded between the Organization and Spain,

1. *Approves* the draft annex to the Convention reproduced in the annex to the present resolution;

2. *Requests* the Secretary-General to proceed with the necessary formalities for the definitive approval of the standard clauses of the Convention and of its annex, in cooperation with the Legal Adviser of the Organization;

3. *Entrusts* the Executive Council with authorizing the Secretary-General on its behalf to definitively approve the text of the annex after its formal adoption by the Economic and Social Council of the United Nations;

4. *Requests* the Secretary-General to report to it on the completion of these formalities at its next session.

Annex

[Original: English]

World Tourism Organization

In their application to the World Tourism Organization (hereinafter referred to as "the Organization"), the standard clauses shall operate subject to the following modifications:

1. Article V and section 25, paragraphs 1 and 2 (I), of article VII of the Convention shall extend to the representatives of Associate Members participating in the work of the Organization in accordance with the Statutes of the World Tourism Organization (hereinafter referred to as "the Statutes").

2. Representatives of Affiliate Members participating in the activities of the Organization in accordance with the Statutes, as well as the Chairpersons and members of the Strategic Group of the Organization, and of the World Committee on Tourism Ethics shall be granted the following privileges, immunities and facilities, in order to safeguard the independent exercise of their official functions:

(a) In respect of words spoken or written and acts done by them in the performance of their official functions, immunity from legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer exercising the activities of the Organization;

(b) Applications for visas, where required and when accompanied by a certificate that they are travelling on the business of the Organization, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel;

(c) In connection with subparagraph (b) above, the principle contained in the last sentence of section 12 of the standard clauses shall apply;

(d) Immunity from legal process as referred to in subparagraph (a) above is granted to representatives of Affiliate Members, as well as to the Chairpersons and members of the Strategic Group of the Organization and of the Committee on Tourism Ethics in the interests of the Organization and not for the personal benefit of the individuals themselves. The Secretary-General of the Organization shall have the right and the duty to waive the immunity of any such individual in any case where in his/her opinion the immunity would impede the course of justice, and can be waived without prejudice to the interests of the Organization.

3. Experts, other than officials coming within the scope of article VI of the Convention, serving on organs and bodies of, or performing missions for, the Organization shall be accorded such privileges and immunities as are necessary for the independent and effective exercise of their functions, including the time spent on journeys in connection with service on organs and bodies or missions. In particular they shall be accorded:

(a) Immunity from personal arrest or seizure of their personal baggage;

(b) In respect of words spoken or written or acts done by them in the performance of their official functions, immunity from legal process of every kind,

such immunity to continue notwithstanding that the persons concerned are no longer serving on organs and bodies of, or employed on mission for, the Organization;

(c) Inviolability for all papers and documents relating to the work on which they are engaged for the Organization;

(d) For the purpose of their communications with the Organization, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) The same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions.

4. Privileges and immunities are granted to the experts in the interests of the Organization and not for the personal benefit of the individuals themselves. The Secretary-General of the Organization shall have the right and the duty to waive the immunity of any expert in any case where, in his/her opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Organization.

5. The privileges and immunities, exemptions and facilities referred to in section 21 of the standard clauses shall also be accorded to the Deputy Secretary-General of the Organization, his/her spouse and minor children.